

part of the main combination (MPEP 806.05(a)). If the subcombination has utility by itself, it may be separately claimed, although restriction will often be required if the combination is also claimed. (See section 63 on old combinations as to when the combination may also be claimed and MPEP 806.05(c) as to restriction between combination and subcombination.) Subcombinations usually relate to machines, but may also be present in methods, compositions, or articles of manufacture.

As one example, the details of construction of the accumulator used with the barrel take-up arrangement of claim 14 of section 56<sup>57</sup> would comprise such a subcombination. If new, it could be separately claimed. Such a subcombination claim might start out: "Apparatus for accumulating an advancing strand, which comprises: . . ."

Note that, in that case, the subcombination is a complete mechanism or machine in itself, serving its own function, but which would always be used with other machines to make a combination machine.

Restriction would probably be required since the subcombination may obviously be used in other combinations and is separately classified (see MPEP 806.05(c)).

Other examples of subcombinations are a carburetor for a car, and such other major subassemblies as tires, headlights, etc. A subcombination method might be a method of accumulating strand in a take-up method, or a method of separating chemical X from Y as a part of a complete process for making Z, wherein X is a byproduct and useful to be recovered. In a composition, a subcombination might be a new compound per se, useful in killing insects, and a combination claim an insecticide containing the new compound with other materials.

Note that subcombination claims of this sort offer no special problems in claim drafting.

Another common format for subcombination claims is: "In an apparatus for doing something, an A, a B, and a C."

Note that as written, this type of claim is an exception to the general "rule" about having a transition between the preamble and the

body (section 7). But, it is preferred to include a standard transition word. Also, in this type of claim, it is less important to list all elements necessary to make a complete combination, since by definition the claim need only be to some part of the combination.

The author is not certain how far one can go in drafting fragmentary "In a" claims, covering only certain portions of a combination, where less than a complete functional subcombination is claimed. It seems that such claims might be rejected as "incomplete" (section 65<sup>58</sup>) or lacking in utility in that they would lack sufficient structure to make a complete combination, machine or process, etc.

Another format, which combines the subcombination with a *lespon* approach (section 57): "An improved A for an X-type system having old elements Y and Z, wherein the improved A comprises: . . ." (for example: "An improved accumulator for a strand-collecting apparatus of the type having a barrel . . ., wherein the improved accumulator comprises: . . .").

See further discussion in section 63 on old combinations, and the claim involved in *In re Rohrbacher and Kolbe*.<sup>71</sup> That discussion is to the effect that a claim to "a cooling liquid pump for engines" of a certain type, is properly a subcombination claim to the pump.

See also *In re Dean*,<sup>72</sup> discussed in section 63, to the effect that a claim to "in a camera having . . ., a shutter-timing apparatus . . . comprising" is a proper subcombination claim to the timer, not an (allegedly old) combination of the timer and a shutter. (See also section 55<sup>59</sup> of new uses and preamble limitations generally.)

A claim that might fit a definition of a subcombination was instead held to be for a combination. The claim in *In re Allen*,<sup>73</sup> read: "A waler bracket for concrete wall forms . . . comprising: a metal bracket . . ." The claim was held to be a bracket, which is an element of a combination, and not a subcombination. The court said: "The

71. 128 U.S.P.Q. (BNA) 117 (C.C.P.A. 1960).

72. 130 U.S.P.Q. (BNA) 107 (C.C.P.A. 1961).

73. 145 U.S.P.Q. (BNA) 147 (C.C.P.A. 1965).